

SERVED: October 23, 2007

NTSB Order No. EA-5330

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 22<sup>nd</sup> day of October, 2007

_____	)	
ROBERT A. STURGELL,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-17868
v.	)	
	)	
ADAM FLETCHER YOUNG,	)	
	)	
Respondent.	)	
_____	)	

**OPINION AND ORDER**

Respondent, proceeding pro se, appeals the order granting summary judgment of Administrative Law Judge William R. Mullins in this matter, issued January 23, 2007.<sup>1</sup> By that decision, the law judge granted the Administrator's motion for summary judgment. The law judge's Order was based on a finding that no

---

<sup>1</sup> A copy of the law judge's order granting summary judgment (hereinafter, "Order") is attached.

genuine issue of material fact exists regarding respondent's conviction of a felony drug crime, and that such conviction renders respondent ineligible to hold a certificate, under 49 U.S.C. § 44710(b)(1).<sup>2</sup> We deny respondent's appeal.

The Administrator's October 5, 2006 order, which functions as the complaint in this case, alleged that, on or about January 26, 2005, respondent acted as pilot-in-command of a Piper Seneca from El Paso, Texas, to Enid, Oklahoma. The order also alleged that after respondent landed at Enid, Federal and State law enforcement officials discovered approximately 431 pounds of marijuana in the aircraft. As a result, respondent was convicted of trafficking a controlled substance in Oklahoma State Court on June 28, 2006, and sentenced to 10 years in the Oklahoma State Penitentiary. Based on these allegations, the Administrator contends that 49 U.S.C. § 44710(b)(1) requires revocation of respondent's private pilot certificate.

---

<sup>2</sup> Title 49 U.S.C. § 44710(b)(1) provides as follows:

The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

- (A) an aircraft was used to commit, or facilitate the commission of, the offense; and
- (B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

Upon receipt of the Administrator's order, respondent filed an appeal and answer. On December 14, 2006, the Administrator filed a motion for summary judgment, with accompanying exhibits.<sup>3</sup> Respondent opposed the Administrator's motion, arguing that he is innocent of the drug trafficking charges, despite his conviction, and that he is appealing his conviction to the Oklahoma Court of Criminal Appeals. Subsequently, the law judge granted the Administrator's motion for summary judgment, finding that the Administrator had conclusively established that respondent had been convicted of using an aircraft to engage in drug trafficking, as alleged. The law judge determined that the Administrator had fulfilled the necessary elements of the controlling statute, and that § 44710(b)(1) required revocation. The law judge also stated that § 44710 does not provide the Administrator with the capacity to review the merits of a criminal conviction, and that respondent's insinuation that he will prevail on appeal does not render § 44710 inapplicable to

---

<sup>3</sup> The Administrator's exhibits in support of the motion included: a copy of the Oklahoma State District Court's determination that probable cause existed to bring charges against respondent; a copy of the Information that the District Attorney filed against respondent, alleging that he had committed a drug trafficking offense; a copy of the jury's verdict finding respondent guilty of the charged drug trafficking offense; a copy of the Judgment and Sentence against respondent, ordering a term of imprisonment of 10 years; a copy of the minutes of the court proceedings; and a copy of the docket sheet from the criminal case.

his case. Order at 2. As such, the law judge granted the Administrator's motion for summary judgment.

Our Rules of Practice provide that the Administrator may submit a motion for summary judgment on the basis that the pleadings and other supporting documentation establish that no genuine issue of material fact exists, and that the party is entitled to judgment as a matter of law. 49 C.F.R. § 821.17(d). Moreover, we have long held that summary judgment is appropriate in the absence of any factual issues. See Administrator v. Hamrick, NTSB Order No. EA-5282 at 2 (2007), and cases cited therein. Here, respondent does not dispute that he was convicted of the drug trafficking offense, as the Administrator alleged. Furthermore, we have previously held that revocation is the appropriate sanction for convictions involving drug offenses. Administrator v. Piro, NTSB Order No. EA-4049 at 4 (1993); Administrator v. Correa, NTSB Order No. EA-3815 (1993). In addition, we agree with the law judge's holding that a respondent's assertions that he or she will prevail on an appeal of a conviction of a crime do not render § 44710 inapplicable. See, e.g., Administrator v. Kratt, NTSB Order No. EA-4917 (2001) (stating that, "we will not entertain collateral attacks on the prior criminal proceedings and the bases for them" and citing Administrator v. Gilliland, NTSB Order No. EA-4149, n.7 (1994)); Administrator v. Pimental, NTSB Order No. EA-4382 (1995).

In sum, respondent demonstrates no error in the law judge's Order. We conclude that the public interest and air safety require affirmation of the law judge's Order granting the Administrator's motion for summary judgment.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied;
2. The law judge's Order is affirmed; and
3. The revocation of respondent's private pilot certificate shall begin 30 days after the service date indicated on this opinion and order.<sup>4</sup>

ROSENKER, Chairman, SUMWALT, Vice Chairman, and HERSMAN, HIGGINS, and CHEALANDER, Members of the Board, concurred in the above opinion and order.

---

<sup>4</sup> For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. § 61.19(g).